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HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO.4018 OF 2006.

PETITIONERS (Plaintiffs)	1.	Tirath Ram Sahu S/o. Late Jaggnath Sahu, aged about 75 years, occupation-agriculturist
	2.	Pilu Ram Sahu S/o. Late Jaggnath Sahu, occupation-agriculturist
	3.	DevaRam Sahu S/o. Late Jagganath Sahu, Occupation – Agriculturist
	4.	Surendra S/o. Shri Daulal Occupation – agriculturist, All – resident of Village Bhusrenga Tahsil-Kurud dist. Dhamatari (C.G.)
	Vs.	
RESPONDENTS (Defendants)	1.	Shri Fagu Ram S/o. Shri Dhiraji
	2.	Shri Mohani S/o Shri Dhiraji
	3.	Smt. Rukhmin D/o. Shri Dhiraji, all are by caste-Gond & all resident of Village Makardona, Tahsil-Nagari, Dist. Dhamatari (C.G.)
	4.	State of Chhattisgarh Through Collector Dhamatari (C.G.)
	5.	The Board of Revenue Bilaspur (C.G.)

Present: Shri R.S. Patel, learned counsel for the petitioners.
Shri Utkarsh Verma, learned Dy. G.A. for the State of C.G.

ORAL ORDER
(Passed on 1st August, 2006)

Law helps diligent not indolent person. The Collector dismissed the appeal of the petitioner for non-prosecution. Thereafterwards, an application was moved after two months under sub-Section (3) of Section 35 of the Chhattisgarh Land Revenue Code, 1959 (for short 'the Code') to set aside the order. That application was dismissed by the Collector. When that was challenged before the Board or Revenue, it also dismissed the Revision. Hence, this writ petition.

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(2) The only ground urged by the learned counsel for the petitioners is that the first petitioner, namely, Tirath Ram Sahu was aged and therefore, he could not appear before the District Collector when the appeal was fixed for hearing and, therefore, the Collector was not justified in dismissing the application filed under sub-Section (3) of Section 35 of the Code. I do not find any merit in the contention. There were four appellants in the appeal filed before the District Collector. Even assuming that the first petitioner was aged and could not appear before the District Collector when the appeal was listed for final hearing, nothing is stated in the writ petition why the remaining appellants could not appear before the Collector. At this stage itself, it needs to be noticed that the appellants were represented by the counsel also. From the record, it could be seen that on the date when the appeal was fixed for final hearing, neither the appellants nor their counsel was present before the Collector. The discretionary order passed by the Collector under sub-Section (3) of Section 35 of the Code as affirmed by the Board of Revenue cannot lightly be interfered with by the Court under Articles 226/227 of the Constitution of India. There is no failure of justice. The writ petition is, therefore, dismissed. No costs.

Sd/-
Chief Justice

Brajesh
Bini